



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,731	01/07/2004	Lawrence J. Cook	66026-0003	1730

44200 7590 11/16/2005

HONIGMAN MILLER SCHWARTZ AND COHN LLP
32270 TELEGRAPH RD
SUITE 225
BINGHAM FARMS, MI 48025-2457

EXAMINER

KOCH, GEORGE R

ART UNIT	PAPER NUMBER
----------	--------------

1734

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,731

Applicant(s)

COOK, LAWRENCE J.

Examiner

George R. Koch III

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --.

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 19-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US 2004/0025318).

As to claim 19, Cooper discloses a method of assembling first and second members, comprising providing a first extendible member (item 90) having a dispenser (item 80 and 87), a second extendible member (items 48/52) having a mandrel (item 40 and 42) and a third extendible member (item 35/65) having a first fixture (item 34, Figure 5 in general); inserting the first member (i.e., the clamp) into the first fixture and the second member into a second (i.e., the hose); moving the first extendible member to orient the dispenser proximate the first member (paragraph 00031-0035); dispensing a glue or adhesive from the dispenser onto the first member (paragraph 0031); moving the second extendible member to insert the mandrel into or over the first member (paragraph 0026) and to position the second member relative to the first member; and moving the third extendible member to compress the second member against a portion of the first member that includes the glue or adhesive (paragraph 0027).

Cooper does not suggest that all of the axis are parallel to each other, especially the first and second extendible members, driven by hydraulics or pneumatics, although

Art Unit: 1734

Cooper does disclose the function and parts. Rearrangement of the parts alone does not grant patentability. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the starting switch would not have modified the operation of the device) (and see MPEP 2144.04 VI C). In this case, a rearrangement of the extendible members in Cooper (say, to match that in the instant application) does not modify the operation of the device, but rather just changes the location of bonding relative the device. Either way, the same function takes place (dispensing and joining of the hose elements). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized the rearrangement of parts in order to perform the method because such a rearrangement could lead to a desirable operating space, by orienting the elements to receive them from prior operations or to provide easier access in a factory setting for workers.

As to claim 20, Cooper discloses a step of moving the third extendible member to align the first member and the second member prior to moving the second extendible member (see paragraph 0024, which discloses preliminary movement).

As to claim 21, Cooper discloses the step of securing the second member to the first member by waiting a predetermined period of time before removing the first and second members from the first and second fixtures (controlled by the microprocessor - see paragraph 0039 which discloses the control of the clamping time and the response time).

As to claim 22, Cooper discloses the step of separating the first and second members from the mandrel after compressing the second member against a portion of the first member that includes the glue or adhesive (see paragraph 0040, which discloses removal of the hose/clamp assembly).

Claims 23-26 are rejected on the same grounds as claims 19-22 above. Cooper is directed towards creating a hose assembly from a hose and a hose clamp (see Figure 1) and therefore, in Cooper, the first and second members are a hose and hose clamp.

As to claim 27, it is noted that Cooper discloses the step of dispensing the glue with a scrubbing step that takes place beforehand (see Fig. 2, item 70 , and page 2, paragraph 0030). One in the art would immediately recognize that this step is used to improve the strength of the bond. However, omission of an element and its function is obvious if the function of the element is not desired. *In re Larson*, 340 F.2d 965, 144 USPQ 347 (CCPA 1965) (Omission of additional framework and axle which served to increase the cargo carrying capacity of prior art mobile fluid carrying unit would have been obvious if this feature was not desired.); and *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (deleting a prior art switch member and thereby eliminating its function was an obvious expedient). See also MPEP 2144.04 II A. In this case, the applicant did not desire the relative stronger bond and eliminated the scrubbing step, and instead settled for an expedite manufacturing step. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have eliminated the

Art Unit: 1734

roughening, scrubbing, etching or surface processing in order to expedite the manufacturing process.

As to claim 28, Cooper discloses a method of assembly a hose assembly including a hose and hose clamp (see citations above), including the steps of providing a fluid power driven apparatus having a dispenser and at least one extendible member for moving at least one of the dispenser and the hose clamp about the hose; orienting at least one of the dispenser and the hose clamp about the hose; dispensing a glue or adhesive from the dispenser between the hose and the hose clamp, and compressing the hose clamp against a portion of the hose that includes the glue or adhesive.

It is noted that Cooper discloses the step of dispensing the glue with a scrubbing step that takes place beforehand (see Fig. 2, item 70 , and page 2, paragraph 0030). One in the art would immediately recognize that this step is used to improve the strength of the bond. However, omission of an element and its function is obvious if the function of the element is not desired. *In re Larson*, 340 F.2d 965, 144 USPQ 347 (CCPA 1965) (Omission of additional framework and axle which served to increase the cargo carrying capacity of prior art mobile fluid carrying unit would have been obvious if this feature was not desired.); and *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (deleting a prior art switch member and thereby eliminating its function was an obvious expedient). See also MPEP 2144.04 II A. In this case, the applicant did not desire the relative stronger bond and eliminated the scrubbing step, and instead settled for an expedite manufacturing step. Therefore, it would have been obvious to one of

Art Unit: 1734

ordinary skill in the art at the time of the invention to have eliminated the roughening, scrubbing, etching or surface processing in order to expedite the manufacturing process.

As to claim 29, Cooper discloses a first extendible member (item 90) having a dispenser (item 80 and 87), a second extendible member (items 48/52) having a mandrel (item 40 and 42) and a third extendible member (item 35/65) having a first fixture (item 34, Figure 5 in general).

As to claim 30, Cooper discloses inserting the first member (i.e., the clamp) into the first fixture and the second member into a second (i.e., the hose); moving the first extendible member to orient the dispenser proximate the first member (paragraph 000031-0035); dispensing a glue or adhesive from the dispenser onto the first member (paragraph 0031); moving the second extendible member to insert the mandrel into or over the first member (paragraph 0026) and to position the second member relative to the first member; and moving the third extendible member to compress the second member against a portion of the first member that includes the glue or adhesive (paragraph 0027).

Cooper does not suggest that all of the axis are parallel to each other, especially the first and second extendible members, driven by hydraulics or pneumatics, although Cooper does disclose the function and parts. Rearrangement of the parts alone does not grant patentability. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the

Art Unit: 1734

starting switch would not have modified the operation of the device) (and see MPEP 2144.04 VI C). In this case, a rearrangement of the extendible members in Cooper (say, to match that in the instant application) does not modify the operation of the device, but rather just changes the location of bonding relative the device. Either way, the same function takes place (dispensing and joining of the hose elements).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized the rearrangement of parts in order to perform the method because such a rearrangement could lead to a desirable operating space, by orienting the elements to receive them from prior operations or to provide easier access in a factory setting for workers.

Response to Arguments

3. Applicant's arguments filed 8/25/2005 have been fully considered but they are not persuasive.

4. Applicant essentially adds two new concepts - that the first extendible member and second extendible member move generally parallel, and that there is no step of roughening, etching, or otherwise processing the hose prior to assembly with the hose clamp. Two legal arguments have been advanced to address why these steps are obvious. The first concept, in order to address making obvious that the first and second extendible members of Cooper could be moved generally parallel, is that the rearrangement of parts is not a grounds for overcoming the prior art, since the function is essentially retained. The motivation to do so would be to orient the elements to

Art Unit: 1734

receive them from prior operations or to provide easier access in a factory setting for workers. The second concept, in order to address the elimination of the scrubbing step in Cooper, is that elimination of a step or an element and its function is generally obvious, if the function is not desired. The motivation to do so would be in order to expedite the manufacturing process.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

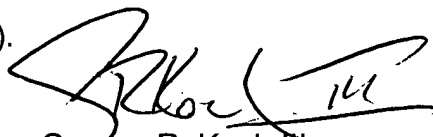
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 1734

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George R. Koch III whose telephone number is (571) 272-1230 (TDD only). If the applicant cannot make a direct TDD-to-TDD call, the applicant can communicate by calling the Federal Relay Service at 1-866-377-8642 and giving the operator the above TDD number. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



George R. Koch III
Primary Examiner
Art Unit 1734

GRK
11/5/2005